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April 25, 2013

MITIGATED NEGATIVE DECLARATION

PROJECT NAME: Ocotillo Wells Solar Major Use Permit

RECORD ID: PDS2012-3300-12-004

ENVIRONMENTAL LOG NO.: PDS2012-3910-12-12-001

**This Document is Considered Draft Until it is Adopted by the Appropriate
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the
Environmental Initial Study that includes the following:

- a. Initial Study Form
 - b. Environmental Analysis Form and attached extended studies for Air
Quality, Biological Resources, Cultural Resources, Drainage, Fire
Protection, Groundwater, Noise, Stormwater and Visual Resources.
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

A. BIOLOGICAL RESOURCES

1. **BIOLOGICAL EASEMENT: [PDS, PCC] [DPR, TC] [DGS, RP] [BP, GP, CP, UO] [PDS, FEE X 2]. INTENT:** In order to protect sensitive biological resources, pursuant to the [Resource Protection Ordinance \(RPO\)](#) and County of San Diego Guidelines for Determining Significance for Biological Resources, a biological open space easement shall be granted. **DESCRIPTION OF REQUIREMENT:** Grant to the County of San Diego by separate document, an open space easement, or grant to the California Department of Fish and Wildlife a conservation easement, as shown on the approved Plot Plan. This easement is for the protection of biological resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation. The only exceptions to this prohibition are:
 - a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the applicable fire code of the Fire Authority Having Jurisdiction and the Memorandum of Understanding dated February 26, 1997, (<http://www.sdcountry.ca.gov/PDS/docs/MemoofUnder.pdf>) between the wildlife agencies and the fire districts and any subsequent amendments thereto.
 - b. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of Planning and

Land Use or the Director of Public Works or Department of Parks and Recreation.

- c. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the Department of Environmental Health of the County of San Diego.

DOCUMENTATION: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the *[DGS, Real Property Division]*, and pay all applicable fees associated with preparation of the documents. Upon Recordation of the easements, the applicant shall provide copies of the recorded easement documents to *[PDS, PCC]* for approval. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit the easements shall be recorded. **MONITORING:** The *[DGS, RP]* shall prepare and approve the easement documents and send them to *[PDS, PCC]* for pre approval. The *[PDS, PCC]* shall pre-approve the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon Recordation of the easements *[DGS, Real Property Division]* shall forward a copy of the recorded documents to *[PDS, PCC]* *[DPR, TC]* for satisfaction of the condition.

2. **OFF-SITE MITIGATION:** *[PDS, PCC]* *[BP, GP, CP, UO]* *[DPR, GPM]* *[PDS, FEE X2]* **INTENT:** In order to mitigate for the impacts to Sonoran Creosote Bush Scrub, which is a sensitive biological resource pursuant to [Resource Protection Ordinance \(RPO\)](#) and County of San Diego Guidelines for Determining Significance for Biological Resources, off-site mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of 227.6 acres of Sonoran Creosote Bush Scrub, located in north eastern San Diego County as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Game. The following evidence of purchase shall include the following information to be provided by the mitigation bank:

1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
 2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
 3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
 4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in San Diego County, subject to the requirements in the Interim Project Processing section of the County's MSCP East Planning Agreement (Section 6.6) or within the Desert Renewable Energy Conservation Plan area, subject to the requirements in the Interim Project Processing section in the NCCP Planning Agreement (Section 8.9) as indicated below:
1. Prior to providing the land for the proposed mitigation, the location should be pre-approved by [PDS].
 2. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
 3. An open space easement over the land shall be dedicated to the County of San Diego or like agency

to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.

4. The dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
5. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

DOCUMENTATION: The applicant shall acquire the off-site mitigation credits or land and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and an application for the RMP shall be submitted to the [PDS, ZONING]. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, REG] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

3. **OPEN SPACE SIGNAGE:** [PDS, PCC] [BP, GP, CP, UO] [PDS, FEE]. **INTENT:** In order to protect the proposed onsite open

space easement from entry, informational signs shall be installed. **DESCRIPTION OF REQUIREMENT:** Open space signs shall be placed along the biological open space boundary at 400-foot intervals. The signs must be corrosion resistant, a minimum of 6" x 9" in size, on posts not less than three (3) feet in height from the ground surface, and must state the following:

**Sensitive Environmental Resources
Area Restricted by Easement**

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions contact the County of San Diego,
Planning & Development Services
Reference: PDS2012-3300-12-004

DOCUMENTATION: The applicant shall install the signs as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor, that the open space signs have been installed at the boundary of the open space easements. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the open space signs shall be installed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition.

4. **RESOURCE MANAGEMENT PLAN: [PDS, REG] [DPR, GPM] [BP, GP, CP, UO] INTENT:** In order to provide for the long-term management of the proposed on-site and off-site open space preserve, a Resource Management Plan (RMP) shall be prepared and implemented. **DESCRIPTION OF REQUIREMENT:** Submit to and receive approval from the Director of Planning & Development Services, a Resource Management Plan (RMP). The RMP shall be for the perpetual management of Sonoran Creosote Bush Scrub. The RMP shall be consistent with the conceptual RMP on file with the as Environmental Review Number PDS2012-3910-1212001. The final RMP cannot be approved until the following has been completed to the satisfaction of the Director of PDS and in cases where DPR has agreed to be the owner/manager, to the satisfaction of the Director of DPR:

- a. The plan shall be prepared and approved pursuant to the most current version of the [County of San Diego Biological Report Format and Content Requirements](#).

- b. The habitat land to be managed shall be completely purchased.
- c. The easements shall be dedicated to ensure that the land is protected in perpetuity.
- d. A Resource Manager shall be selected and evidence provided by applicant as to the acceptance of this responsibility by the proposed Resource Manager
- e. The RMP funding mechanism to fund annual costs for basic stewardship shall be identified and approved by the County.
- f. A contract between applicant and County shall be executed for the implementation of the RMP.

DOCUMENTATION: The applicant shall prepare the RMP and submit it to the [PDS, ZONING] and pay all applicable review fees.

TIMING: Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit the RMP shall be approved. **MONITORING:** The [PDS, REG] [DPR, GPM] shall review the RMP for compliance with the content guidelines, the conceptual RMP, and this condition.

5. **BIOLOGICAL MONITORING: [PDS, PCC] [DPW, LDR] [GP, CP, UO] [PDS, FEE X2]. INTENT:** In order to prevent inadvertent disturbance to sensitive biological habitat and sensitive plant and wildlife species, all grading shall be monitored by a biologist. The biological monitor will be present during the different phases of the project and the varying fencing sections. **DESCRIPTION OF REQUIREMENT:** A County approved biologist "Project Biologist" shall be contracted to perform biological monitoring during all grading, clearing, grubbing, and trenching. The following shall be completed:

- a. The Biologist shall perform the monitoring duties before, during and after construction pursuant to the most current version of the [County of San Diego Biological Report Format and Requirement Guidelines](#) and this permit. The contract provided to the county shall include an agreement that this will be completed, and [a Memorandum of Understanding \(MOU\)](#) between the biological consulting company and the County of San Diego shall be executed. The contract shall

include a cost estimate for the monitoring work and reporting.

- b. The cost of the monitoring shall be added to the grading bonds that will be posted with the Department of Public Works, or bond separately with Planning & Development Services.

DOCUMENTATION: The applicant shall provide a copy of the biological monitoring contract, cost estimate, and [MOU](#) to the [PDS, PCC]. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate. **TIMING:** Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** The [PDS, PCC] shall review the contract, [MOU](#) and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to [DPW, Project Manager], for inclusion in the grading bond cost estimate, and grading bonds. The [DPW, PC] shall add the cost of the monitoring to the grading bond costs.

- 6. **LIZARD SURVEY, FENCING, AND REMOVAL STRATEGY: [PDS, PCC] [GP, BP, UO] [MITIGATION]. INTENT:** In order to mitigate any potential inadvertent disturbance to the Flat tailed Horned Lizard and Colorado Desert Fringe Toed Lizard, a lizard survey, fencing and removal strategy shall be implemented. **DESCRIPTION OF REQUIREMENT:** A County approved biologist shall complete the following duties as specified in the Flat tailed horned lizard rangewide management strategy.

- a. **Fencing Protocol:** Install lizard barrier fencing for the exclusion of the lizards prior to surveying the parcels during construction as follows:
 - 1. The barrier fence shall be constructed along the perimeter of the phased construction area , and be inset sufficiently from the perimeter of the parcel to allow for construction and maintenance.
 - 2. Barrier material shall be 0.25" mesh hardware cloth and 36" in height.
 - 3. Barrier material shall be buried 6" deep, providing 30" above the surface.

4. Barrier material shall be securely attached to t-posts or fence posts and barbed wire strung at heights of 15" and 30" (A third barbed wire shall be strung above the FTHL-proof fencing, using metal clips or wire.
 5. Additional t-posts or fence posts shall be placed at any junctions between rolls of hardware cloth to discourage the formation of gaps.
- b. **Removal Survey Protocol:** Once the barrier fencing has been installed, the project biologist shall conduct the lizard removal surveys. The surveys shall follow the following guidelines:
1. Surveys shall be conducted by experienced biological monitors.
 2. Surveys shall occur only during appropriate survey conditions as described in Appendix 6 of the plan (generally April - September under optimal temperature conditions, etc.)
 3. Minimum survey effort shall be 0.5 hour per acre, unless otherwise required by the County of San Diego.
 4. Survey methods shall be designed to achieve a maximal capture rate and shall include but not be limited to the following: strip transects, tracking, and raking around shrubs.
 5. Survey methods shall incorporate a systematic component to ensure that the entire fenced project site is surveyed. A modification of the Population Monitoring Protocol (Appendix 7 of the rangewide management strategy plan) may be used.

DOCUMENTATION: The Project Biologist shall prepare and submit to the satisfaction the [*PDS*, *PCC*] a report that details the installation of the barrier fencing and the results of the surveys. Along with the narrative, the report shall have photographs of the fencing and any lizards that are removed from the project site.

TIMING: Prior to approval of any grading and or improvement

plans and issuance of any Grading or Construction Permits, the condition shall be implemented. **MONITORING:** The [PDS, PCC] shall review the lizard removal strategy report and fencing plan implementation for compliance with this condition.

7. PRE-CONSTRUCTION SURVEYS FOR DESERT KIT FOX [PDS, PCC] [GP, BP, UO]

INTENT: In order to mitigate any potential inadvertent disturbance to the desert kit fox, preconstruction surveys shall be conducted.

DESCRIPTION OF REQUIREMENT: Preconstruction surveys for desert kit fox shall be conducted in the project area prior to implementation of any ground-disturbing construction activities. Preconstruction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any project. If more than 30 days lapse between the time of the preconstruction survey and the start of ground-disturbing activities, another preconstruction survey shall be completed. The preconstruction surveys shall cover the project area and a 200- foot buffer around the project area. A County approved biologist shall complete the following duties:

- a. If a natal/pupping den is discovered within the project site or within 200 feet of the project boundary, the CDFW shall be notified. A natal/pupping den shall not be disturbed or destroyed while occupied.
- b. If avoidance of den destruction is not feasible or practicable, destruction of the den shall be accomplished by careful excavation until it is certain that no kit foxes are inside. The den shall be fully excavated, filled with dirt, and compacted to ensure that kit foxes cannot reenter or use the den during the construction period. If at any point during excavation a kit fox is discovered inside the den, the excavation activity shall cease immediately and monitoring of the den will be conducted as described below. Destruction of the den may be completed when in the judgment of the qualified biologist the animal has escaped, without further disturbance, from the partially destroyed den. Occupied natal/pupping dens shall not be destroyed until vacated by kit foxes and only after consultation with the DFW. Only when the den is determined to be unoccupied will the den be excavated under the direction of the qualified biologist. Use of spotting scopes

and game cameras are encouraged to confirm presence/absence.

- c. Because kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured, all construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods will either be capped or covered such that no animal can enter, or be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the DFW has been consulted. If necessary, and under the direct supervision of the qualified biologist, the pipe may be moved only once to remove it from the path of construction activity, until the kit fox has escaped.

DOCUMENTATION: The Project Biologist shall prepare and submit to the satisfaction the [PDS, PCC] a report that details the kit fox preconstruction surveys. Along with the narrative, the report shall have photographs of any dens that are located onsite and any kit fox that are removed from the project site. **TIMING:** Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits, the condition shall be implemented. **MONITORING:** The [PDS, PCC] shall review the kit fox preconstruction survey report for compliance with this condition.

8. **BURROWING OWL PRE GRADING SURVEY: [PDS, PCC] [DPW, LDR] [GP, IP, MA] [PDS, FEE X2]. Intent:** In order to prevent inadvertent disturbance to Burrowing Owls, pre grading surveys shall be conducted prior to initiating grading on the site. **Description of Requirement:** Pre-grading surveys must be completed no more than 30 days before initiating brushing, clearing, grubbing, or grading of the project site. One pre-grading survey shall be conducted consistent with Section 3.1 of the Burrowing Owl Strategy. The results of the pre-grading survey must be immediately reported to the County Mitigation Monitoring Coordinator, CDFW and USFWS prior to grading and must be provided in writing (as by e-mail). The written and signed pre-grading survey report must follow within 14 days of the survey or burrowing owl eviction and include maps of the project site and burrowing owl locations on aerial photos and in the format described in the mapping guidelines of the County's Report Format

and Content Requirements – Biological Resources.

No grading may occur within occupied burrowing owl habitat during the burrowing owl breeding season (February 1 through August 31).

If burrowing owls are not detected during pre-grading surveys, based on Section 3.4.1.1 of the Burrowing Owl Strategy, the following shall be required:

- a. Following the initial pre-grading survey, the site must be monitored for new burrows each week until grading is complete.
- b. If burrowing owls were not found on the site during the pre-grading survey but are found to be using the site occasionally for roosting or foraging, they should be allowed to do so with no changes in the grading or grading schedule.
- c. If burrowing owls were not found on the site during the pre-grading survey but are found to be using the site repeatedly for roosting or foraging, the County's mitigation monitor should be notified and the portion of the site that has not been graded should be searched for burrows. If no burrow is found, only notification of the County's mitigation monitor is needed. If an active burrow is found, the procedures in section 3.4.1.2 of the Burrowing Owl Strategy must be followed.
- d. If a burrowing owl begins using a burrow on the site at any time after the initial pre-grading survey grading begins, procedures described in section 3.4.1.2 of the Burrowing Owl Strategy must be followed.
- e. Any actions other than these require the approval of the County, USFWS and CDFW.
- f. Burrowing owls may not be injured or killed.

If owls are present, based on Section 3.4.1.2 of the Burrowing Owl Strategy, the following shall be required:

- g. If one or more burrowing owls are using burrows on or within 300 feet of the proposed grading, the County Mitigation

Monitoring Coordinator should be contacted. The County Mitigation Monitoring Coordinator will contact the USFWS and CDFW regarding the eviction of the owls and collapse of the burrows, and will enlist the help of a County staff biologist to continue with the coordination with the wildlife agencies and a qualified burrowing owl biologist regarding the burrowing owls. No grading shall occur within 300 feet of an active burrow.

- h. If the owl is using a burrow on the site and it is not the breeding season, the owl may be evicted as described in section 4.5.4 of the Burrowing Owl Strategy after a qualified burrowing owl biologist has ensured, by using a fiber optic camera or other appropriate device that no eggs or young are in the burrow. Eviction requires written concurrence from the USFWS and CDFW prior to implementation.
- i. If a burrow is being used and it is the breeding season, grading shall not occur within 300 feet of the burrow until the young have fledged and are no longer dependent on the burrow, at which time the burrowing owls can be evicted. Eviction requires written concurrence from the USFWS and CDFW prior to implementation.
- j. Grading closer than 300 feet may occur with concurrence from the USFWS, CDFW, and County Mitigation Monitoring Coordinator. This distance will depend on the burrow's location in relation to the site's topography and other physical and biological considerations.
- k. Burrowing owls may not be injured or killed.
- l. Burrowing owls are known to use open pipes, culverts, excavated holes, and other burrow-like structures at construction sites. Therefore, measures should be taken to discourage colonization or recolonization at the construction site by burrowing owls. Such measures include, but are not limited to, ensuring that the ends of all pipes and culverts are covered when they are not being worked on, and covering rubble piles, dirt piles, ditches, and berms.

Documentation: The applicant shall provide a copy of the pre grading survey report, cost estimate, and MOU to the [PDS, PCC].

Timing: Prior to the approval of any plan, issuance of any permit,

and prior to approval of the map, the requirement shall be completed. **Monitoring:** The [PDS, PCC] shall review the contract, MOU and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to [DPW, Project Manager], for inclusion in the grading bond cost estimate, and grading bonds. The [DPW, PC] shall add the cost of the monitoring and surveys to the grading bond costs.

9. **BIOLOGICAL MONITORING: [PDS, PCC] [UO, FG] [PDS, FEE X2]. INTENT:** In order to ensure that the biological monitoring occurred during the grading phase of the project, a final Biological Monitoring Report shall be prepared. **DESCRIPTION OF REQUIREMENT:** The "Project Biologist" shall prepare final biological monitoring report. The report shall substantiate the supervision of the grading activities, and state that grading or construction activities did not impact any additional areas of sensitive habitat or any other sensitive biological resources. The report shall conform to the County of San Diego Report Format Guidelines for Biological Resources, and include the following items:

- a. Photos of the temporary fencing that was installed during the trenching, grading, or clearing activities.
- b. Monitoring logs showing the date and time that the monitor was on site.
- c. Photos of the site after the grading and clearing activities.

DOCUMENTATION: The Biologist shall prepare the final report and submit it to the [PDS, PCC] for review and approval. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final report shall be approved. **MONITORING:** The [PDS, PCC] shall review the final report for compliance this condition and the report format guidelines. Upon approval of the report, [PDS, PCC] shall inform [DPW, LDR] and [DPW, PDCI], that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then [PDS, PCC] shall inform [PDS, FISCAL] to release the bond back to the applicant.

B. CULTURAL RESOURCES**10. ARTIFACT CURATION: [PDS, PCC] [BP, GP, CP, UO] [PDS, FEE]**

INTENT: In order to ensure that all cultural resource artifacts that were discovered during the survey, testing and evaluation phase are curated for future research and study, the artifacts shall be delivered and accepted by a County approved curation facility.

DESCRIPTION OF REQUIREMENT: All archaeological materials recovered by Micah Hale with ASM & Associates during the work reported in: "*Archaeological Significance Testing of Four Sites for the Gildred Solar Project San Diego County, California*", prepared by Micah Hale and Chad Willis, dated March 2013, have been curated at a San Diego facility that meets federal standards per 36 CFR Part 79, and therefore would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation. **DOCUMENTATION:** The applicant shall provide a letter from the curation facility, which identifies that the archaeological materials referenced in the final report have been received and that all fees have been paid. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the artifacts shall be curated. **MONITORING:** The [PDS, PCC] shall review the letter from the curation facility for compliance with this condition.

11. ARCHAEOLOGICAL GRADING MONITORING: [PDS, PCC] [DPW, ESU] [GP, IP, UO] [PDS, FEE X 2]

INTENT: In order to mitigate for potential impacts to undiscovered buried archaeological resources on the project site, a grading monitoring program and potential data recovery program shall be implemented pursuant to the [County of San Diego Guidelines for Determining Significance for Cultural Resources](#) and [California Environmental Quality Act \(CEQA\) Sections 15064.5 and 15064.7](#).

DESCRIPTION OF REQUIREMENT: A County Approved Principal Investigator (PI) known as the "Project Archaeologist," shall be contracted to perform cultural resource grading monitoring and a potential data recovery program during all grading, clearing, grubbing, trenching, and construction activities that include additional grading and trenching. The following shall be completed:

- a. The Project Archaeologist shall perform the monitoring duties before, construction pursuant to the most current version of the [County of San Diego Guidelines for Determining Significance and Report Format and Requirements for Cultural Resources](#), and this permit. The contract provided to the County shall include an agreement that the grading monitoring will be completed, and a [Memorandum of Understanding \(MOU\)](#) between the Project Archaeologist and the County of San Diego shall be executed. The contract shall include a cost estimate for the monitoring work and reporting.
- b. The Project Archeologist shall provide evidence that a Native American of the appropriate tribal affiliation has also been contracted to perform Native American Grading Monitoring for the project.
- c. The cost of the monitoring shall be added to the grading bonds that will be posted with the Department of Public Works, or bond separately with the Department of Planning and Land Use.

DOCUMENTATION: The applicant shall provide a copy of the Grading Monitoring Contract, cost estimate to the [PDS, PCC]. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate. **TIMING:** Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** The [PDS, PCC] shall review the contract and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to [DPW, Project Manager], for inclusion in the grading bond cost estimate, and grading bonds. The [DPW, PC] shall add the cost of the monitoring to the grading bond costs, and the grading monitoring requirement shall be made a condition of the issuance of the grading or construction permit.

C. GROUNDWATER RESOURCES

12. **GROUNDWATER USE REDUCTION MEASURES:** [PDS, PCC] [DGS, RP] [UO] [PDS, FEE X 2]. **INTENT:** In order to offset groundwater impacts during construction and protect long term groundwater resources in the Borrego Valley aquifer, groundwater use reduction measures shall be provided as described in Section 67.720.B. of the Groundwater Ordinance. **DESCRIPTION OF**

REQUIREMENT: One of the following groundwater use reduction measures shall be used to permanently stop the withdrawal of at least 2 acre-feet of water annually from the Borrego Valley aquifer:

- **Option 1:** In accordance with the following provisions, grant an easement to the County of San Diego on off-site land within the Borrego Valley Exemption area that is being irrigated with at least 2 acre-feet of water annually from the Borrego Valley aquifer:
 - a) The easement shall permanently and completely prohibit the use, extraction, storage, distribution or diversion of groundwater on the property subject to the easement, except for the use of a maximum of one acre-foot of groundwater for a single-family residence.
 - b) The amount and evidence of historic groundwater use and the terms and conditions of the easement shall be subject to approval of the Director of PDS. Evidence of historic groundwater use on the land subject to the easement may include, but is not limited to, a survey by a California Professional Land Surveyor or Professional Engineer, historical aerial photographs, and a written description of the historical water use.
 - c) The quantity of water available for offset shall be based on the total groundwater consumptive use for each vegetation type on the land subject to the easement as determined by the values in the following table:

Vegetation Type	Groundwater Consumptive Use Per Acre (acre-feet/acre/year)
Citrus (all types)	4.9
Nursery plants	4.5
Palms (all types)	3.7
Tamarisk	1.7

Turf (warm season)	5.1
Turf (winter cool/ summer warm)	5.6
Potatoes	0.8

To determine the groundwater consumptive use for each vegetation type within the easement area, the acreage of irrigated land for a particular vegetation type is multiplied by the "Groundwater Consumptive Use Per Acre" as listed in the table above. The "Groundwater Consumptive Use Per Acre" value for any vegetation types not listed in the table above shall be determined by the Director.

- **Option 2:** Obtain water credits issued by the Borrego Water District equivalent to permanently stopping the withdrawal of at least 2 acre-feet of water annually from the Borrego Valley aquifer. Credits issued by the Borrego Water District must comply with the Memorandum of Agreement between the Borrego Water District and the County of San Diego regarding Water Credits dated January 9, 2013, and any amendments thereto, on file with the Clerk of the Board of Supervisors.
- **Option 3:** An alternative legally enforceable mechanism may be proposed for permanently stopping the withdrawal of at least 2 acre-feet of water annually from the Borrego Valley aquifer. The alternative mechanism is subject to the approval of the Director of PDS.

DOCUMENTATION: Option 1: The applicant shall prepare the draft plats and legal description of the easement, submit them to [DGS, Real Property Division], and pay all applicable fees associated with preparation of the documents. The applicant shall also provide [DGS, Real Property Division] with evidence of historic groundwater use, for review and approval by [PDS, PCC and PDS Groundwater Geologist]. Upon recordation of the easement, the applicant shall provide copies of the recorded easement documents to [PDS, PCC and PDS Groundwater Geologist] for final approval. **Option 2:** The applicant shall provide a copy of the water credits issued by the Borrego Water District to [PDS, PCC and PDS Groundwater Geologist] for approval. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of

the premises in reliance of this permit, one of the following is required to be completed: **Option 1:** The easement shall be recorded. **Option 2:** Water credits shall be approved by PDS. **MONITORING: Option 1:** The [DGS, RP] shall prepare the easement documents and send them to [PDS, PCC] for pre approval. The [PDS, PCC] shall pre-approve the documents, location of the easement, and the historic water usage information before the documents are released to the applicant for signature and subsequent recordation. Upon recordation of the easements [DGS, Real Property Division], shall forward a copy of the recorded documents to [PDS, PCC and PDS, Groundwater Geologist] for satisfaction of the condition. **Option 2:** A copy of the water credits shall be submitted to [PDS, PCC and PDS, Groundwater Geologist] for satisfaction of the condition.

13. GROUNDWATER COMPLIANCE: [PDS, CODES] [OG].

INTENT: In order to ensure impacts to off-site wells remain less than significant, the project shall have an on-site annual groundwater usage limitation of a maximum of 5 acre feet as evaluated in the [County Groundwater Guidelines for Determining Significance](#). **DESCRIPTION OF REQUIREMENT:** The project shall not use more than 5 acre feet of groundwater annually from on-site wells. **DOCUMENTATION:** The applicant shall comply with the maximum water usage allotment. The applicant shall maintain quarterly log to provide evidence of water usage upon request by the County. **Timing:** Upon establishment of the use, this condition shall apply for the duration of the term of this permit. **Monitoring:** The [PDS, Code Enforcement Division] is responsible for enforcement of this permit.

D. TRANSPORTATION

14. TRANSPORTATION IMPACT FEE: [PDS, LDR] [PDS, BD] [BP, UO]

INTENT: In order to mitigate potential cumulative traffic impacts to less than significant, and to comply with the Transportation Impact Fee (TIF) Ordinance Number 77.201-77.219, the TIF shall be paid.

DESCRIPTION OF REQUIREMENT: The Transportation Impact Fee (TIF) shall be paid pursuant to the County TIF Ordinance number 77.201-77.223 . The TIF payment will be based on the Non-Village Select Industrial Uses for the Desert Community Planning Area based on 10 Average Daily Trips (ADT). The fee is required for the entire project, or it can be paid at building permit issuance for each phase of the project. The fee is calculated

pursuant to the ordinance. **DOCUMENTATION:** The applicant shall pay the TIF at the [PDS, ZONING] and provide a copy of the receipt to the [PDS, Building Division Technician] at time of permit issuance. The cost of the fee shall be calculated at time of payment. **TIMING:** Prior to approval of any building plan and the issuance of any building permit, or use of the premises in reliance of this permit, the TIF shall be paid. **MONITORING:** The [PDS, ZONING] shall calculate the fee pursuant to the ordinance and provide a receipt of payment for the applicant. [PDS, Building Division] shall verify that the TIF has been paid before the first building permit can be issued. The TIF shall be verified for each subsequent building permit issuance.

E. NOISE

15. **NOISE REQUIREMENT: [PDS, BPPR] [BP] [PDS, FEE X1].**
INTENT: In order to reduce the impacts of the exterior sound levels from the project site on the adjacent parcels and to comply with the [County of San Diego Noise Ordinance 36.404](#) as evaluated in the [County of San Diego Noise Guidelines for Determining Significance](#), the following design measures shall be implemented on the building plans and in the site design.
DESCRIPTION OF REQUIREMENT: The following design elements and noise attenuation measures shall be implemented and indicated on the building plans and made conditions of its issuance: All proposed generator units shall be located at a minimum distance of 1,200 feet from the southern and eastern property line. This condition only applies to the concentrated photovoltaic solar technology option. **DOCUMENTATION:** The applicant shall place the design elements, or notes on the building plans and submit the plans to *[PDS, Building Division Plan Pre-review (BPPR)]* for review and approval. **TIMING:** Prior to issuance of any building permit, the design elements and noise attenuation measures shall be incorporated into the building plans. **MONITORING:** The *[PDS, BPPR]* shall verify that the specific note(s), and design elements, and noise attenuation measures have been placed on all sets of the building plans and made conditions of its issuance.
16. **NOISE CONTROL DESIGN MEASURES: [PDS, BPPR] [PDS, PCC [BP] [PDS FEE X1]** **INTENT:** In order to reduce the impacts of the exterior sound levels from the project site on the adjacent parcels and to comply with the [County of San Diego Noise Ordinance 36.404](#) as evaluated in the [County of San Diego Noise](#)

[Guidelines for Determining Significance](#), the following design measures shall be verified that they are constructed. This condition only applies to concentrated photovoltaic solar technology. **DESCRIPTION OF REQUIREMENT:** The following noise control design measure(s) shall be constructed pursuant to the approved building plans: All proposed generator units shall be located at a minimum distance of 1,200 feet from the southern and eastern property line. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the noise control measure shall be installed and operational. **MONITORING:** The [PDS, BI] shall verify that the noise control measures above have been constructed pursuant to the approved building plans and this permit's conditions.

The following Plan Notes shall be placed on the Plot Plan and made conditions of the issuance of said permits.

(BIOLOGICAL RESOURCES)

17. **“BIOLOGICAL MONITORING: [PDS, PCC] [DPW,PDCI] [PC] [PDS, FEE X3].**
INTENT: In order to prevent inadvertent disturbance to sensitive habitat or sensitive plant and wildlife species, all grading shall be monitored by a biological monitor. **DESCRIPTION OF REQUIREMENT:** A County approved biologist shall perform biological monitoring during all grading, clearing, grubbing, and trenching. “The Project Biologist shall also perform the following duties before construction to comply with the conditions of this Grading Plan and Major Use Permit:
- a. The Biologist shall attend the preconstruction meetings and other meetings to discuss construction requirements. Such meeting shall include the PDS Permit Compliance Section.

DOCUMENTATION: The Biological Monitor shall prepare written documentation that certifies that the temporary fencing has been installed and that all construction staff has been trained on the site sensitive biological resources that are to be avoided. **TIMING:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** The [DPW, PDCI] shall invite the [PDS, PCC] to the preconstruction conference to coordinate the Biological Monitoring requirements of this condition. The [PDS, PCC] shall attend the preconstruction conference and verify the installation of the temporary fencing and approve the training documentation prepared b the biologist.

18. **“TEMPORARY FENCING: [PDS, PCC] [DPW,PDCI] [PC] [PDS, FEE].**
INTENT: In order to prevent inadvertent disturbance to sensitive habitat outside of the project footprint and within the proposed open space easements, temporary construction fencing shall be installed. **DESCRIPTION OF REQUIREMENT:** Prior to the commencement of any grading and or clearing in association with this grading plan, temporary orange construction fencing shall be placed to protect from inadvertent disturbance of all open space easements that do not allow grading, brushing or clearing. Temporary fencing is required in all locations of the project where proposed grading or clearing is within 100 feet of an open space easement boundary. The placement of such fencing shall be approved by the PDS, Permit Compliance Section. Upon approval, the fencing shall remain in place until the conclusion of grading activities after which the fencing shall be removed. **DOCUMENTATION:** The applicant shall provide evidence that the fencing has been installed and have a California licensed surveyor certify that the fencing is located on the boundary of the open space easement(s). The applicant shall submit photos of the fencing along with the certification letter to the [PDS, PCC] for approval. **TIMING:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances the fencing shall be installed, and shall remain for the duration of the grading and clearing. **MONITORING:** The [PDS, PCC] shall either attend the preconstruction conference and approve the installation of the temporary fencing, or review the certification and pictures provided by the applicant.”
19. **“RESOURCE AVOIDANCE: [PDS, PCC] [DPW, PDCI] PDS, FEE X2].**
INTENT: In order to avoid impacts to migratory birds, which are a sensitive biological resource pursuant to the Migratory Bird Treaty Act (MBTA), a Resource Avoidance Area (RAA), shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading such that none will be allowed during the breeding season of migratory birds within Resource Avoidance Area (RAA) as indicated on these plans. The breeding season is defined as occurring between February 15th and August 31st. The Director of Planning and Development Services [PDS, PCC] may waive this condition, provided that no migratory birds are present in the vicinity of the brushing, clearing or grading. **DOCUMENTATION:** The applicant shall provide a letter of agreement with this condition; alternatively, the applicant may submit a written request for waiver of this condition. Although, No Grading shall occur within the RAA until concurrence is received from the County and the Wildlife Agencies. **TIMING:** Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County. **MONITORING:** The [DPW, PDCI] shall not allow any grading in the RAA during the specified dates,

unless a concurrence from the [PDS, PCC] is received. The [PDS, PCC] shall review the concurrence letter.”

20. **“BIOLOGICAL MONITORING: [PDS, PCC] [DPW,PDCI] [PC] [PDS, FEE X3].**
INTENT: In order to prevent inadvertent disturbance to sensitive habitat and sensitive plant and wildlife species, all grading located shall be monitored by a biological monitor. **DESCRIPTION OF REQUIREMENT:** A County approved biologist shall perform biological monitoring during all grading, clearing, grubbing, and trenching. The Project Biologist shall supervise and monitor grading activities to ensure against damage to biological resources that are intended to be protected and preserved. The monitor(s) shall be on site during all grading and clearing activities. If there are disturbances, the monitor must report them immediately to the [PDS PCC]. Additionally, the biologist shall perform the following duties: **[PDS, FEE]**

- a. Perform weekly inspection of fencing and erosion control measures (daily during rain events) near proposed preservation areas and report deficiencies immediately to the DPW Construction Inspector;
- b. Perform periodically monitor the work area for excessive dust generation in compliance with the County grading ordinance and report deficiencies immediately to the DPW Construction Inspector;
- c. Conduct training for contractors and construction personnel, including the purpose for resource protection, a description of the gnatcatcher and its habitat, and the conservation measures that should be implemented during project construction;
- c. Monitor construction lighting periodically to ensure lighting is the lowest illumination possible allowed for safety, selectively placed, shielded, and directed away from preserved habitat;
- d. Monitor equipment maintenance, staging, and fuel dispensing areas to ensure there is no runoff to Waters of the US;
- e. Stop or divert all work when deficiencies require mediation and notify DPW Construction Inspector and PDS Permit Compliance Section within 24 hours; (8) produce periodic (monthly during grading) and final reports and submit to the PDS (final report will release bond);
- f. Attend construction meetings and other meetings as necessary.

DOCUMENTATION: The Project Biologist shall prepare and submit to the satisfaction the [PDS, PCC] monitoring reports, which indicate that the

monitoring has occurred as indicated above. **TIMING:** The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDCI] shall assure that the Project Biologist is on-site performing the Monitoring duties of this condition during all applicable grading activities as determined by the Biologist. The [DPW, PDCI] shall contact the [PDS, PCC] if the Project Biologist or applicant fails to comply with this condition. The [PDS, PCC] shall review and approve the monitoring reports for compliance with this condition.

21. **“EASEMENT AVOIDANCE: [PDS, PCC] [DPW, PDCI] [PDS, FEE]. INTENT:** In order to protect sensitive resources, pursuant to [County Grading Ordinance Section 87.112](#) the open space easements shall be avoided. **DESCRIPTION OF REQUIREMENT:** The easement indicated on this plan is for the protection of sensitive environmental resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. It is unlawful to grade or clear within an open space easement, any disturbance shall constitute a violation of the [County Grading Ordinance Section 87.112](#) and will result in enforcement action and restoration. The only exceptions to this prohibition are:
- a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the applicable fire code of the Fire Authority Having Jurisdiction and the Memorandum of Understanding dated February 26, 1997, (<http://www.sdcountry.ca.gov/PDS/docs/MemoofUnder.pdf>) between the wildlife agencies and the fire districts and any subsequent amendments thereto.
 - b. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of Planning and Development Services or the Director of Public Works or Department of Parks and Recreation.
 - c. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the Department of Environmental Health of the County of San Diego.

DOCUMENTATION: The applicant shall provide a letter statement to the [PDS, PCC] stating that all Sensitive Resource Easements were avoided during the grading construction, and that no impacts or encroachment into the open space

occurred. **TIMING:** Prior to Final Grading Release the letter verifying the easements were not disturbed shall be submitted. **MONITORING:** The [DPW, PDCI] shall not allow any grading, clearing or encroachment into the open space easement.”

(CULTURAL RESOURCES)

- 22. ARCHAEOLOGICAL MONITORING: [DPW, PDCI] [PDS, PCC] [PDS, FEE X2]**
INTENT: In order to comply with Mitigation Monitoring and Reporting Program pursuant to 3300 12-004(MUP), and the [County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Archeological and Historic Resources](#) , Cultural Resource Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist (and Native American Monitor, if contracted) shall monitor original cutting of previously undisturbed deposits in all areas identified for development including off-site improvements. The grading monitoring program shall comply with the following requirements during grading:
- a. “During the original cutting of previously undisturbed deposits, the Project Archaeologist and Native American Monitor shall be onsite as determined necessary by the Project Archaeologist. Inspections will vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features. The frequency and location of inspections will be determined by the Project Archaeologist in consultation with the Native American Monitor. Monitoring of cutting of previously disturbed deposits will be determined by the Project Archaeologist.”
 - b. “In the event that previously unidentified potentially significant cultural resources are discovered, the Project Archaeologist, in consultation with the Native American monitor, shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources. At the time of discovery, the Project Archaeologist shall contact the PDS Staff Archaeologist. The Project Archaeologist, in consultation with the PDS Staff Archaeologist, shall determine the significance of the discovered resources. Construction activities will be allowed to resume in the affected area only after the PDS Staff Archaeologist has concurred with the evaluation. For significant cultural resources, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the Project Archaeologist and approved by the Staff Archaeologist, then carried out using professional archaeological methods.”
 - c. “If any human bones are discovered, the Project Archaeologist shall contact the County Coroner and the PDS Staff Archaeologist. If the

remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted by the Project Archaeologist in order to determine proper treatment and disposition of the remains.”

DOCUMENTATION: The applicant shall implement the grading monitoring program pursuant to this condition. **TIMING:** The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDCI] shall make sure that the Project Archeologist is on-site performing the Monitoring duties of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the Project Archeologist or applicant fails to comply with this condition.

23. ARCHAEOLOGICAL MONITORING REPORT: [PDS, PCC] [RG, BP] [PDS, FEE].

INTENT: In order to comply with the adopted Mitigation Monitoring and Reporting Program (MMRP) pursuant to 3300 12-004 (MUP), and the [County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Archaeological Resources](#), a Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist shall prepare a final report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program if cultural resources were encountered during grading. The report shall include the following:

- a. Department of Parks and Recreation Primary and Archaeological Site forms.
- b. Daily Monitoring Logs
- c. Evidence that all cultural resources collected during the grading monitoring program have been submitted to a San Diego curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that archaeological materials have been received and that all fees have been paid.
- d. If no cultural resources are discovered, a brief letter to that effect must be submitted stating that the grading monitoring activities have been

completed. Daily Monitoring Logs must be submitted with the negative monitoring report.

DOCUMENTATION: The applicant shall submit the report to the [PDS, PCC] for review and approval. **TIMING:** Prior to the occupancy of any structure or use of the premises in reliance of 3300 12-004, and prior to Final Grading Release ([Grading Ordinance Sec. 87.421.a.3](#)), the final report shall be completed. **MONITORING:** The [PDS, PCC] shall review the final report for compliance with the project MMRP, and inform [DPW, PDCI] that the requirement is completed.

(AIR QUALITY)

24. AIR QUALITY: [DPW, PDCI].

INTENT: In order to reduce construction related impacts to a level below significance. **DESCRIPTION OF REQUIREMENT:** The project shall comply with the following Air Quality measures:

- a. Apply water during grading/grubbing activities to all active disturbed areas at least two times daily and use magnesium chloride or another County approved dust suppression additive to reduce dust.
- b. Apply water to all onsite roadways at least two times daily or use of magnesium chloride or other County approved dust suppression additives and apply water one-time daily.
- c. Reduce all construction related traffic speeds onsite to below 15 miles per hour (MPH).
- d. Install Wheel Shakers at all egress locations onsite as necessary to remove mud from water trucks traveling to and from the project site.

DOCUMENTATION: The applicant shall comply with the Air Quality requirements of this condition. **TIMING:** The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDCI] shall make sure that the grading contractor complies with the Air Quality requirements of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the applicant fails to comply with this condition.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation

measures, their implementation must be assured to avoid potentially significant environmental effects.

ANY PERMIT: *(Prior to the approval of any plan, issuance of any permit, and prior to occupancy or use of the premises in reliance of this permit).*

25. COST RECOVERY: [PDS, DPW, DEH, DPR], [GP, CP, BP, UO]

INTENT: In order to comply with Section 362 of Article XX of the San Diego County Administrative Code, Schedule B.5, existing deficit accounts associated with processing this permit shall be paid. **DESCRIPTION OF REQUIREMENT:** The applicant shall pay off all existing deficit accounts associated with processing this permit. **DOCUMENTATION:** The applicant shall provide a receipt to Planning & Development Services, Zoning Counter, which shows that all discretionary deposit accounts have been paid. No permit can be issued if there are deficit deposit accounts. **TIMING:** Prior to the approval of any plan and prior to the issuance of any permit and prior to use in reliance of this permit, all fees and discretionary deposit accounts shall be paid. **MONITORING:** The PDS Zoning Counter shall review the receipts and verify that all PDS, DPW, DEH, and DPR deposit accounts have been paid.

26. RECORDATION OF DECISION: [PDS], [GP, CP, BP, UO]

INTENT: In order to comply with Section 7019 of the Zoning Ordinance, the Permit Decision shall be recorded to provide constructive notice to all purchasers, transferees, or other successors to the interests of the owners named, of the rights and obligations created by this permit. **DESCRIPTION OF REQUIREMENT:** The applicant shall sign, notarize with an 'all purpose acknowledgement' and return the original Recordation Form to PDS. **DOCUMENTATION:** Signed and notarized original Recordation Form. **TIMING:** Prior to the approval of any plan and prior to the issuance of any permit and prior to use in reliance of this permit, a signed and notarized copy of the Decision shall be recorded by PDS at the County Recorder's Office. **MONITORING:** The PDS Zoning Counter shall verify that the Decision was recorded and that a copy of the recorded document is on file at PDS.

27. SALES AND USE TAX: [PDS, PCC] [UO]

INTENT: In order to ensure economic benefits to the County by obtaining the receipt of sales and use tax revenues, the applicant will work with the County and the contractors that will be responsible for the acquisition of materials and the construction of the Project so sales and use tax shall be accepted in the unincorporated area of the County of San Diego. **DESCRIPTION OF REQUIREMENT:** A signed and notarized statement from someone authorized to sign on behalf of the applicant shall include

terms mutually acceptable to the County and the applicant indicating a good faith effort will be made to ensure the receipt of sales and use tax revenue in the unincorporated area of the County of San Diego. Terms that would ensure the receipt of sales and use tax could include, but not be limited to, the following:

- a. Make a good-faith effort to have all transactions that will generate sales and use taxes, including transactions of applicant's contractors, occur in the unincorporated area of the County;
- b. Encourage the contractors to establish a business location and tax resale account, and take other reasonable steps, to maximize receipt of sales and use tax revenues for the County;
- c. Include in a master contract and any other contract for construction, language ensuring that the County will receive the benefit of any sales and use tax generated by the Project to the fullest extent permitted by law;
- d. Include the following provision from California Board of Equalization, Regulation 1806(b), in all construction contracts:

The jobsite is regarded as a place of business of a construction contractor or subcontractor and is the place of sale of "fixtures" furnished and installed by contractors or subcontractors. The place of use of "materials" is the jobsite. Accordingly, if the jobsite is in a county having a state administrated local tax, the sales tax applies to the sale of the fixtures, and the use tax applies to the use of the materials unless purchased in a county having a state-administrated local tax and not purchased under a resale certificate.

- e. In all agreements related to the Project, identify the jobsite as the project address, which is located within the unincorporated area of the County of San Diego;
- f. If the applicant enters into a joint venture or other relationship with a contractor, supplier, or designer, the applicant shall either establish a buying company within San Diego County under the terms and conditions of Board of Equalization Regulation 1699(h), to take possession of any goods on which sales and use taxes are applicable but are not defined by Regulation 1806 and shall include in its their requests for bids, procurement contracts, bid documents,

and any other agreement whereby California Sales and Use Taxes may be incurred, that the sale occurs at that place of business in the unincorporated area of San Diego County; or, alternatively, any entity that may sell goods on which sales taxes are applicable may establish its own place of business within the unincorporated area of San Diego County where delivery is ultimately made to the applicant; principle negotiations for all such sales shall be carried on in San Diego County;

- g. Provide notice to all out-of-state suppliers of goods and equipment, no matter where originating, that San Diego County is the jurisdiction where the first functional use of the property is made.

DOCUMENTATION: The applicant shall provide a signed and notarized statement from someone authorized to sign on behalf of the company, with language acceptable to the company and the Director of Planning and Development Services [PDS, PCC] specifying the terms related to sales and use taxes, when feasible. **TIMING:** Within 30 days after this permit becomes effective and prior to establishment of use in reliance of this permit, this condition shall be satisfied. **MONITORING:** The [PDS, PCC] shall review the evidence for compliance to this condition.

GRADING PERMIT: *(Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits).*

28. PLAN CONFORMANCE: [DPW, ESU] [GP, IP,] [DPR, TC, PP]

INTENT: In order to implement the required mitigation measures for the project, the required grading plans shall conform to the approved Conceptual Grading and Development Plan pursuant to [Section 87.207 of the County Grading Ordinance](#). **DESCRIPTION OF REQUIREMENT:**

The grading plans shall conform to the approved Conceptual Grading and Development Plan, which includes all of the following mitigation measures: biological monitoring, temporary fencing, resource avoidance, archaeological monitoring, easement avoidance. All conditions, requirements, mitigation measures and information stated on the sheets of the plans shall be made conditions of the permit's issuance and shall be implemented pursuant to the adopted Mitigation Monitoring and Reporting Program (MMRP) of this Permit. No deviation of the requirements can be made without modification or a minor deviation of this permit. **DOCUMENTATION:** The applicant shall submit the grading plans and improvement plans, which conform to the conceptual development plan for the project. **TIMING:** Prior to approval of any grading or improvement plan and prior to issuance of any grading or construction permit, the notes and items shall be placed on the plans as

required. **MONITORING:** The [DPW, Environmental Services Unit Division, DPR, TC, or PDS, Building Division for Minor Grading] shall verify that the grading and or improvement plan requirements have been implemented on the final grading and or improvement plans as applicable. The environmental mitigation notes shall be made conditions of the issuance of said grading or construction permit.

29. TRAFFIC CONTROL PLAN: [PDS, LDR] [GP, IP, UO]

INTENT: In order to mitigate below levels of significance for temporary traffic impacts, a traffic control plan shall be prepared and implemented.

DESCRIPTION OF REQUIREMENT: A Traffic Control Plan (TCP) shall be prepared that addresses the following, but is not only limited to: haul routes, number of trips per day, and destination.

- a. The implementation of the TCP shall be a condition of any grading, construction, or excavation permit issued by the County. Any additional County [Traffic Control Permits](#) shall be obtained as required and any [CALTRANS Encroachment Permits](#) for work within the State of California Rights of Way as identified in the TCP. The applicant is responsible for the maintenance and repair of any damage caused by them to the on-site and off-site private roads that serve the property either during construction or subsequent operations.”
- b. The applicant will repair those portions of the route that would be damaged by the heavy loads that loaded trucks place on the route identified. An agreement shall be executed, which will also include an agreement is to include (1) a cash deposit for emergency traffic safety repairs; (2) long-term security for expected increased maintenance on the route identified; and (3) possible future asphaltic overlay requirements on the route identified. The specific roads are identified as follows: **Split Mountain Road.**

DOCUMENTATION: The applicant shall have the TCP prepared by a licensed Traffic Engineer and submit it to [PDS, LDR] for review. The applicant shall also execute a secured agreement for any potential damages caused by heavy trucks on road mentioned above. The agreement and securities shall be approved to the satisfaction of the [PDS, LDR]. The applicant is responsible for obtaining any additional permits as identified in the TCP. **TIMING:** Prior to approval of any grading and or improvement plans and issuance of any Grading, Construction, or Excavation Permits, a TCP shall be prepared and approved. **MONITORING:** The [PDS, LDR] shall review the TCP for compliance with this condition, and require any additional traffic or

encroachment permits before any approval of the TCP. The TCP shall be implemented and made a condition of any associated County Construction, Grading or Encroachment Permit.

BUILDING PERMIT: *(Prior to approval of any building plan and the issuance of any building permit).*

30. DECOMMISSIONING PLAN: [PDS, PCC] [BP, UO] [PDS, FEE]

INTENT: In order to ensure the removal of the Solar Energy System and to comply with Zoning Ordinance Section 6952.b.3.iv a decommissioning plan shall be executed. **DESCRIPTION OF REQUIREMENT:** A decommissioning plan shall be provided to the satisfaction of the Director of Planning and Development Services that ensures removal of the solar energy system. The plan shall also have a secured agreement in the form and amount determined by the Director to ensure removal of the Solar Energy System and conversion of the site back into a use that is compatible with the surrounding properties. **DOCUMENTATION:** The applicant shall provide the plan, financial mechanism, and agreement to the [PDS, PCC] for review. **TIMING:** Prior to the approval of any building plan and the issuance of any building permit, or use of the site in reliance of this permit, this condition shall be completed. **MONITORING:** The [PDS, PCC] shall review the plan for compliance, agreement, and form of security for compliance with this condition. Upon approval of the form of security, the [PDS, PCC] will provide the securities to the PDS Developer Deposit Section safekeeping.

31. PRIVATE ROAD IMPROVEMENTS: [PDS, LDR], [GP, CP, BP, UO]

INTENT: In order to promote orderly development and to comply with the San Diego [County Standards for Private Roads](#), Section 3.1(C), project access roads shall be improved. **DESCRIPTION OF REQUIREMENT:**

- a. Improve the off-site **private easement road**, from Split Mountain Road easterly to the southwesterly corner of the project site, to a graded width of twenty-eight feet (28') and to an improved width of twenty-four feet (24') with an all weather paving material capable to support up to 50,000 pounds.

All plans and improvements shall be completed pursuant to the [County of San Diego County Standards for Private Roads](#) and the DPW [Land Development Improvement Plan Checking Manual](#). The design and construction of all driveways, turnarounds, and private easement road improvements shall be to the satisfaction of the San Diego County Fire Authority and the [PDS, LDR].

DOCUMENTATION: The applicant shall complete the following:

- b. Process and obtain approval of Improvement Plans to improve private easement road.
- c. Pay all applicable inspection fees with [DPW, PDC].
- d. Obtain approval for the design and construction of all driveways, turnarounds, and private easement road improvements to the satisfaction of the San Diego County Fire Authority and the [PDS, LDR].

TIMING: Prior to approval of any building plans and the issuance of any building permits, the private road and driveway improvements shall be completed. **MONITORING:** The [PDS, LDR] shall review the plans for consistency with these condition and County Standards.

OCCUPANCY: *(Prior to any occupancy, final grading release, or use of the premises in reliance of this permit).*

32. INSPECTION FEE: [PDS, ZONING][PDS, PCO] [UO][DPR, TC, PP].

INTENT: In order to comply with Zoning Ordinance Section 7362.e the Discretionary Inspection Fee shall be paid. **DESCRIPTION OF**

REQUIREMENT: Pay the Discretionary Permit Inspection Fee at the [PDS, Zoning Counter] to cover the cost of inspection(s) of the property to monitor ongoing conditions associated with this permit. In addition, submit a letter indicating who should be contacted to schedule the inspection.

DOCUMENTATION: The applicant shall provide a receipt showing that the inspection fee has been paid along with updated contact information [PDS, PCC]. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit.

MONITORING: The [PDS, Zoning Counter] shall process an invoice and collect the fee for the Use Permit Compliance Inspection Fee. PDS will schedule an inspection within one year from the date that occupancy or use of the site was established.

33. SITE PLAN IMPLEMENTATION: [PDS, BI] [UO] [DPR, TC, PP].

INTENT: In order to comply with the approved project design indicated on the approved plot plan, the project shall be constructed as indicated on the approved building and construction plans. **DESCRIPTION OF**

REQUIREMENT: The site shall conform to the approved Major Use Permit plot plan and the building plans. This includes, but is not limited to: improving all parking areas, driveways, installing all required design features, required and approved signage is installed and located properly,

and all temporary construction facilities have been removed from the site.

DOCUMENTATION: The applicant shall ensure that the site conforms to the approved plot plan and building plans. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the site shall conform to the approved plans. **MONITORING:** The [PDS, Building Inspector] and DPR [TC, PP] shall inspect the site for compliance with the approved Building Plans.

34. SALES AND USE TAX: [PDS, PCC] [UO]

INTENT: In order to ensure economic benefits to the County by obtaining the receipt of sales and use tax, the applicant will work with the County and the contractors that will be responsible for the acquisition of materials and the construction of the Project so sales and use tax shall be accepted in the unincorporated area of the County of San Diego. **DESCRIPTION OF REQUIREMENT:** Provide documentation that demonstrates the equipment, labor, supplies, etc. for the project that were paid for and received in the unincorporated area of the County of San Diego. **DOCUMENTATION:** The applicant shall provide at a minimum an organized summary to demonstrate the total estimated amount of sales tax and use revenue the project produced. The evidence shall be provided to the [PDS, PCC] for approval to the satisfaction of the Director of PDS. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final evidence and or report shall be provided to the County. **MONITORING:** The [PDS, PCC] shall review the evidence for compliance to this condition.

35. ACCESS IMPROVEMENTS: [PDS, LDR] [DPR, TC] [GP, CP, BP, UO]

INTENT: In order to promote orderly development and to comply with the [Centerline Ordinance Sec. 51.500 et. al.](#), the project driveway shall be improved. **DESCRIPTION OF REQUIREMENT:** Improve or agree to improve and provide security for:

- a. The **project driveway** shall be designed and constructed to the satisfaction of the Director of the Department Public Works and the Director of the Department of Planning and Development Services.
- b. Provide **taper area** from the ultimate right of way line to the existing edge of pavement with asphalt concrete to the satisfaction of the Director of the Department Public Works and the Director of the Department of Planning and Development Services.

All plans and improvements shall be completed pursuant to the [County of San Diego Public Road Standards](#) and the DPW [Land Development Improvement Plan Checking Manual](#). The improvements shall be

completed within 24 months from the approval of the improvement plans, execution of the agreements, and acceptance of the securities.

DOCUMENTATION: The applicant shall complete the following:

- c. Process and obtain approval of Improvement Plans to improve the driveway on **Split Mountain Road**.
- d. Provide Secured agreements. The required security shall be in accordance with [Section 7613 of the Zoning Ordinance](#).
- e. Pay all applicable inspection fees with [DPW, PDCI].
- f. If the applicant is a representative, then one of the following is required: a corporate certificate indicating those corporation officers authorized to sign for the corporation, or a partnership agreement recorded in this County indicating who is authorized to sign for the partnership.
- g. Obtain approval for the design and construction of driveways, turnarounds, pathways and private easement road improvements to the satisfaction of the County of San Diego Fire Authority and the [PDS, LDR].
- h. Obtain a Construction Permit for any work within the County road right-of-way. DPW Construction/Road right-of-way Permits Services Section should be contacted at (858) 694-3275 to coordinate departmental requirements. Also, before trimming, removing or planting trees or shrubs in the County Road right-of-way, the applicant must first obtain a permit to remove, plant or trim shrubs or trees from the Permit Services Section.

TIMING: Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the plans shall be approved and securities must be provided. **MONITORING:** The [PDS, LDR] and [DPR, TC] shall review the plans for consistency with the condition and County Standards. Upon approval of the plans [PDS, LDR] shall request the required securities and improvement agreements. The securities and improvement agreements shall be approved by the Director of the Department of Public Works before any work can commence.

36. SIGHT DISTANCE: [PDS, LDR] [UO]

INTENT: In order to provide an unobstructed view for safety while exiting the property and accessing a public road from the site, and to comply with the Design Standards of Section 6.1, Table 5, of the [County of San Diego](#)

[Public Road Standards](#), an unobstructed sight distance shall be verified.

DESCRIPTION OF REQUIREMENT: A registered civil engineer, a registered traffic engineer, or a licensed land surveyor provide a certified signed statement that: "Physically, there is a minimum unobstructed sight distance based upon prevailing traffic speeds in both directions along **Split Mountain Road** from the project driveway opening." If the lines of sight fall within the existing public road right-of-way, the engineer or surveyor shall further certify that: "Said lines of sight fall within the existing right-of-way and a clear space easement is not required."

DOCUMENTATION: The applicant shall complete the certifications and submit them to the [PDS, LDR] for review. **TIMING:** Prior to the approval of any plan, issuance of any permit, and prior to occupancy or use of the premises in reliance of this permit, the sight distance shall be verified.

MONITORING: The [PDS, LDR] shall verify the sight distance certifications.

37. FIRE PROTECTION PLAN : [PDS, PCC] [UO] [PDS, FEE]

INTENT: In order to assure fire safety in compliance with the [County of San Diego Fire Code Sections 96.1.4703 and 96.1.4707](#), the site shall be maintained in conformance with the approved Fire Protection Plan.

DESCRIPTION OF REQUIREMENT: The following measures approved in the Fire Protection Plan shall be implemented and maintained:

- a. **Access:** The driveway entrances (fire apparatus entrance points) leading from Split Mountain Road and all internal roadways shall have an unobstructed improved width of 24-feet of all weather paving. Fire apparatus access roads shall be designed and maintained to support the imposed load of fire apparatus weighing not less than 50,000 lbs. and shall be provided with an approved surface for all weather driving capabilities.
- b. **Gates:** Any gates, new or existing, must meet County Fire Code. Gate installation must include a Knox key-operated switch.
- c. **CFD:** Participate in the Community Facilities District currently being created by the San Diego County Fire Authority or enter into a developer agreement to the satisfaction of the San Diego County Fire Authority.

DOCUMENTATION: The applicant shall provide documentation (inspection report or photographs) that demonstrates compliance with the FPP. **TIMING:** Prior to occupancy of the first structure built in association with this permit, the FPP requirements shall be implemented.

MONITORING: The [PDS, PCC] shall verify that the mitigation measures

have been initially implemented pursuant to the approved building plans and the fire protection plan.

ONGOING: *(Upon establishment of use the following conditions shall apply during the term of this permit).*

38. SITE CONFORMANCE: [PDS, PCO] [OG] [DPR, TC, PP].

INTENT: In order to comply with Zoning Ordinance Section 7703, the site shall substantially comply with the approved plot plans and all deviations thereof, specific conditions and approved building plans. **DESCRIPTION OF REQUIREMENT:** The project shall conform to the approved building plans, and plot plan(s). This includes, but is not limited to maintaining the following: all parking, driveways areas, and required signage. Failure to conform to the approved plot plan(s); is an unlawful use of the land, and will result in enforcement action pursuant to Zoning Ordinance Section 7703. **DOCUMENTATION:** The property owner and permittee shall conform to the approved plot plan. If the permittee or property owner chooses to change the site design in any way, they must obtain approval from the County for a Minor Deviation or a Modification pursuant to the County of San Diego Zoning Ordinance. **TIMING:** Upon establishment of the use, this condition shall apply for the duration of the term of this permit. **MONITORING:** The *[PDS, Code Enforcement Division]* is responsible for enforcement of this permit.

39. DECOMMISSIONING: [PDS, CODES] [OG].

INTENT: In order to ensure the removal of the Solar Energy System and to comply with Zoning Ordinance Sections 7372 and 6952.b.3.iv.a, the decommissioning plan shall be implemented upon discontinuance of the use. **DESCRIPTION OF REQUIREMENT:** The approved decommissioning plan shall be implemented if at such time the use of the property as a photovoltaic solar farm is discontinued for a period of time pursuant to Section 7372 of the Zoning Ordinance as determined by the Director of PDS. **DOCUMENTATION:** The plan shall be implemented by the landowner and or applicant upon discontinuance of the use. **TIMING:** Upon establishment of the use, this condition shall apply for the duration of the term of this permit. **MONITORING:** The *[PDS, Code Enforcement Division]* is responsible for enforcement of this permit.

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

on _____

Jarrett Ramaiya, Planning Manager
Project Planning Division